

Message Text

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AMCONSUL DUESSELDORF

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USAREUR HEIDELBERG

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C O R R E C T E D C O P Y (TAGS AND SUBJECT OMITTED ON ORIGINAL)

FOR POLADS

E.O. 11652: N/A

TAGS: PINS, ASEC GW

SUBJ: BAADER-MINHOF TRIAL

1. SUMMARY: FIRST SENATE STUTTGART OBERLANDESGERICHT
DECIEDED JUNE 3 THAT THREE DEFENSE LAWYERS CROISSANT,
GROENEWOLD AND STROEBELE SHALL BE BARRED FROM WHOLE
BAADER-MEINHOF TRIAL. EUROPEAN HUMAN RIGHTS CON-
VENTION IN STRASBOURG SAME DAY REJECTED ANDREAS
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BAADER'S AND OTHER BAADER-MEINHOF PRISONER'S COMPLAINTS
RE CONDITION THEIR IMPRISONMENT. END SUMMARY.

2. FIRST SENATE STUTTGART OBERLANDESGERICHT DECIDED

JUNE 4 THAT THREE DEFENSE LAWYERS CROISSANT, GROENEWOLD AND STROEBELE, WHO WERE ALREADY BARRED FROM DEFENDING THEIR INDIVIDUAL CLIENTS, SHALL ALSO BE BARRED FROM DEFENDING OTHER DEFENDANTS. COURT CONCLUDED THAT EXCLUSION OF A DEFENSE LAWYER FROM "COOPERATION IN A TRIAL" (PAR. 138 A OF PENAL ORDINANCES) DID NOT REFER TO THE PERSON TO BE DEFENDED, BUT TO THE TRIAL AS SUCH. SINCE TRIAL AGAINST BAADER, MEINHOF, ENSSLIN, AND RASPE IS A COMMON TRIAL, A LAWYER EXCLUDED FROM DEFENDING ONE DEFENDANT IN THIS TRIAL COULD NOT BE ALLOWED TO DEFEND ANOTHER IN THE SAME TRIAL.

3. FIRST SENATE THUS SUPPORTED ORIGINAL INTERPRETATION BY SECOND SENATE CONDUCTING TRIAL. FEDERAL PROSECUTORS HAD SOUGHT RULING TO MAKE ABSOLUTELY SURE NO BASIS EXISTED FOR POSSIBLE SUCCESSFUL FUTURE APPEAL FOR NEW TRIAL.

4. DESPITE FEDERAL PROSECUTOR'S VIEW THAT NO POSSIBILITY EXISTS OF APPEAL BY EITHER SIDE AGAINST DECISION BARRING LAWYERS FROM "TOTAL TRIAL", THE FIRST SENATE ALLOWED IMMEDIATE APPEAL TO THE FEDERAL PENAL COURT (BUNDESGERICHTSHOF IN KARLSRUHE).

5. SHOULD THE FEDERAL PENAL COURT REJECT THE EXPECTED APPEALS (WHICH WOULD NOT, HOWEVER, PREVENT CONTINUATION OF THE TRIAL), THE BARRED DEFENSE LAWYERS COULD APPEAL FURTHER TO THE FEDERAL CONSTITUTIONAL COURT (IN KARLSRUHE). SUCH AN APPEAL ALSO WOULD NOT DELAY TRIAL BUT WOULD ADD TO UNCERTAINTIES.

6. STILL COMPLICATING MATTERS IS FACT THAT THE BARRING OF STROEBELE NOW LEAVES DEFENDENT ANDREAS BAADER WITH NO DEFENSE LAWYERS OF HIS OWN CHOICE. HOWEVER, ART. 6 OF THE EUROPEAN HUMAN RIGHTS' CONVENTION PROVIDES THAT EVERYONE WAS ENTITLED TO "HAVE THE ASSISTANCE OF A DEFENSE LAWYER OF HIS OWN CHOICE." IT IS POSSIBLE
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THEREFORE, THAT ANOTHER LEFTIST-ENGAGED LAWYER WILL PITCH IN TO DEFEND BAADER. A NEW LAWYER COULD COMPLICATE MATTERS SIMPLY BY REQUESTING A POSTPONEMENT OF THE TRIAL TO BE ABLE TO STUDY THE CASE.

7. BAADER-MEINHOF PRISONERS ALSO RECEIVED ADDITIONAL SETBACK WHEN EUROPEAN HUMAN RIGHTS CONVENTION IN STRASBOURG ON JUNE 3 REJECTED BAADER'S CONTENTION THAT THEIR CONDITIONS OF IMPRISONMENT WERE "INHUMAN".

8. TRIAL EXPECTED TO RESUME JUNE 5.

COMMENT: AS THE FOREGOING INDICATES, THERE STILL ARE

AMPLE OPPORTUNITIES FOR DEFENSE TO IMPOSE A SERIES OF PROCEDURAL DELAYS IN CONNECTION WITH BAADER-MEINHOF TRIAL. THE TACTIC OF THE PUBLIC PROSECUTOR IN OBTAINING TIMELY DECISION OF FIRST SENATE (DESIGNATED TO RULE ON SUCH MATTERS) HAS PROBABLY CIRCUMSCRIBED SOMEWHAT DEFENSE'S AREA OF PROCEDURAL MANEUVER, BEYOND TRIAL ASPECTS OF BAADER-MEINHOF ACTIVITIES, THE STRASBOURG DECISION AND THE COURT RULING ON THE DEFENSE LAWYERS APPEAR TO IMPROVE THE CARDS HELD BY THE GOVERNMENT IN THE IMPORTANT AREAS OF DEFENSE POTENTIAL FOR PROPAGANDA EXPLOITATION AND IMPROPER UTILIZATION OF DEFENSE LAWYERS IN COMMAND AND COURIER CHANNELS BETWEEN BAADER-MEINHOF LEADERSHIP AND OUTSIDE TERRORIST ELEMENTS. DEFENSE LAWYERS CROISSANT, STROEBELE AND GROENEWOLD HAVE BEEN EXCLUDED AND HAAG AND LANG HAVE GONE UNDERGROUND. ON THE OTHER HAND, EXTENT TO WHICH TERRORIST COMMAND MECHANISM IS DIMINISHED DEPENDS ON ROLE THESE FIVE LAWYERS NOW INTEND TO ASSUME. JENKINS

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